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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/715,437

11/16/2000

Lynn Watson

ISD00021

5708

60909

7590

04/07/2010

CYPRESS SEMICONDUCTOR CORPORATION  
198 CHAMPION COURT  
SAN JOSE, CA 95134-1709

EXAMINER

STEVENS, THOMAS H

ART UNIT

PAPER NUMBER

2121

MAIL DATE

DELIVERY MODE

04/07/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/715,437	<b>Applicant(s)</b> WATSON ET AL.	
	<b>Examiner</b> THOMAS H. STEVENS	<b>Art Unit</b> 2121	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/2/10.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-17 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-17 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-14, 18-20 and 22 were cancelled.
2. Claims 15-17 and 21 were examined.

#### ***Section I: Request for Continued Examination***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/02/2010 has been entered.

#### ***Section II: Non Final Rejection***

##### ***Claim Rejections - 35 USC § 103***

##### ***Specification***

4. The abstract of the disclosure is objected to because the current sets of claims reflect an emulation environment compared to the abstract, dated 11/16/2000, which summarizes a simulation environment. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 15 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 15 recites the limitation "the emulation device" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 15-17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fosdick, titled "VM/CMS Handbook for Programmers, Users and Managers" in view of Official Notice.

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As per claim 15, Fosdick teaches a method of insulating an operating environment (pg. 13, figure 2.2,(b) mainframe hardware monitoring virtual machine) emulator (pg. 13, figure 2.2,(b) plurality of virtual machines) from a host computer (pg. 13, figure 2.2,(b)mainframe hardware as the host computer), the method comprising; connecting a memory device to a host computer (pg. 13, figure 2.2,(b)mainframe hardware as the host computer) having an original operating system (the OS within the mainframe/host computer, pg. 13,figure 2.2)and a host processor, wherein the original operating system (the OS within the mainframe/host computer, pg. 13,figure 2.2)is executing on the host processor; selecting a secondary operating system to be emulated from multiple emulated operating systems available on the memory device; selecting a secondary operating system emulator (pg. 13, figure 2.2,(b) plurality of virtual machines) from a plurality of secondary operating system emulators (pg. 13, figure 2.2,(b) plurality of virtual machines), wherein the selected secondary operating system ( pg. 13,figure 2.2 (b) any one of the virtual machines)emulator (pg. 13, figure 2.2,(b) plurality of virtual machines) comprises instructions configured to emulate the secondary operating system using the original operating system (the OS within the mainframe/host computer, pg. 13,figure 2.2)and the host processor; executing the selected secondary operating system (pg. 13, 2<sup>nd</sup> paragraph) emulator (pg. 13, figure 2.2,(b) plurality of virtual machines) on the host processor and original operating system (the OS within the mainframe/host computer, pg. 13,figure 2.2)of the host computer (pg. 13, figure 2.2,(b)mainframe hardware as the host computer); disabling host task management on

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the original operating system; routing input/output signals (pg. 15, figure 2-4 the control program integrating the host machine or mainframe hardware to the virtual machine) only through the emulated operating system(pg. 13, 2<sup>nd</sup> paragraph);

**But Fosdick fails to teach shutting down or disabling the emulated operating system.**

Official notice is taken since the limitation “of activating an environmental shutdown by disabling the emulated operating system in response to interactions between the original operating system and the emulated operating system”, was well known at the time of invention was made in the analogous art of Fosdick. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art for a user to virtually or physically disconnect a guest computer from the host computer as a matter of choice. The motivation to do so would have been "efficient at controlling online terminals, and because it provides certain programming compatibility features with many of the other operating systems that may run as guest in the VM environment" (pg.15, 3<sup>rd</sup> paragraph, lines 3-6). Therefore, it would have been obvious to modify Fosdick to obtain the invention as specified in claims 15-17.

**Per claim 16 Fosdick teaches**

Claim 16. The method of claim 15, wherein disabling further comprises completely isolating the host computer (pg. 13, figure 2.2,(b)mainframe hardware as the host computer).

**Per claim 17 Fosdick teaches**

Claim 17. The method of claim 15, wherein disabling further comprises allowing a user to define allowed interactions between the host computer (pg. 13, figure 2.2,(b)mainframe hardware as the host computer) and the emulation device.

**Per claim 21 Fosdick teaches**

Claim 21. The method of claim 15, wherein the selection is based on a type of the original operating system (the OS within the mainframe/host computer, pg. 13,figure 2.2) and a type of the host processor(pg. 13, figure 2.2,(b) mainframe hardware as the host computer; processor located inside the computer).



***Section III: Response to Arguments***

11. While applicants requested continued examination, they have not or at least clearly refuted the merits of the rejection (see applicants' RCE 3/2/2010). The only indication is the title "Amendment and Response to Office Action", with "In response to the Final Office Action mailed December 3, 2009, applicant respectfully request reconsideration of this application, as amended, and consideration of the following remarks." However, no remarks were present. Thus the rejection stands.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure:

- US 6782355 discloses an apparatus for improving concurrent behavior modeling with emulation.
- US 6799157 discloses a method for improving pin compatibility in microcomputer emulation equipment.
- US 5564011 discloses a system and method for maintaining file data access in case of dynamic critical sector failure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715.

If attempts to reach the examiner by telephone are unsuccessful, please contact examiner's supervisor Mr. Albert Decady (571-272-3819). The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.. Answers to questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) (toll-free (866-217-9197)).

/Thomas H. Stevens/

Examiner, Art Unit 2121